

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

-----X  
J & J SPORTS PRODUCTIONS, INC.,

Plaintiff,

Case No.: 7:18-cv-2923

-against-

**ANSWER**

DAWN M. HERSHKO, individually and d/b/a  
BRICKHOUSE FOOD & DRINK; ITZHAK  
HERSHKO, individually and d/b/a BRICKHOUSE  
FOOD & DRINK and BRICKHOUSE FOOD LLC, an  
unknown business entity d/b/a BRICKHOUSE FOOD  
& DRINK,

Defendants.  
-----X

Defendants Dawn M. Hershko (“Dawn”), Individually and d/b/a Brickhouse Food & Drink, Itzhak Hershko (“Itzhak”), Individually and d/b/a Brickhouse Food & Drink, and Brickhouse Food LLC d/b/a Brickhouse Food & Drink (hereinafter collectively referred to as “Defendants”) by their attorneys, Rogers, Habas, Verrilli & Eisen, P.C., as and for its answer to the Complaint (the “Complaint”), by Plaintiff J & J Sports Productions, Inc., answer as follows:

1. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “1” of the Complaint.

2. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “2” of the Complaint.

3. Defendants deny each and every allegation set forth in Paragraph “3” of the Complaint.

4. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “4” of the Complaint.

5. Defendants deny knowledge or information sufficient to form a belief as to each and every allegation set forth in Paragraph “5” of the Complaint.

6. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “6” of the Complaint.

7. Defendants deny the allegations set forth in Paragraph “7” of the Complaint.

8. Defendants deny knowledge and information sufficient to form a belief as to the allegations set forth in Paragraph “8” of the Complaint.

9. Defendants deny the allegations set forth in Paragraph “9” of the Complaint.

10. Defendants deny each and every allegation set forth in Paragraph “10” of the Complaint.

11. Defendants deny each and every allegation set forth in Paragraph “11” of the Complaint.

12. Defendants deny each and every allegation set forth in Paragraph “12” of the Complaint.

13. Defendants deny each and every allegation set forth in Paragraph “13” of the Complaint.

14. Defendants deny each and every allegation set forth in Paragraph “14” of the Complaint.

15. Paragraph “15” contains statements to which a response is not required. To the extent a response is required, Defendants deny the allegation set forth therein.

16. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “16” of the Complaint.

17. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “17” of the Complaint.

18. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “18” of the Complaint.

19. Defendants deny each and every allegation set forth in Paragraph “19” of the Complaint.

20. Defendants deny each and every allegation set forth in Paragraph “20” of the Complaint.

21. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “21” of the Complaint.

22. Defendants deny the allegation set forth in Paragraph “21” of the Complaint.

23. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegation set forth in Paragraph “23” of the Complaint.

24. Defendants deny each and every allegation set forth in Paragraph “24” of the Complaint.

25. Paragraph “25” contains statements to which a response is not required. To the extent a response is required, Defendants deny the allegation set forth therein.

26. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegation set forth in Paragraph “26” of the Complaint.

27. Defendants deny the allegation set forth in Paragraph “27” of the Complaint.

28. Defendants deny the allegation set forth in Paragraph “28” of the Complaint.

29. Defendants deny each and every allegation set forth in Paragraph “29” of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

30. Plaintiff's claims fail to state a claim for relief against Dawn Hershko and Itzhak Hershko.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

31. Plaintiff's claims are barred by the doctrine of estoppel.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

32. Plaintiff's claims are barred by no privity of contract.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

33. Plaintiff's claims are barred by the doctrine of waiver.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

34. Plaintiffs claims are barred by the equitable doctrine of unclean hands.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

35. Plaintiffs claims are barred by their improper notice of any alleged breach by Defendants.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

36. Neither Dawn Hershko nor Itzhak Hershko do business as "Brickhouse Food & Drink". "Brickhouse Food & Drink" is not an entity

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

37. Plaintiff has failed to name an indispensable party.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

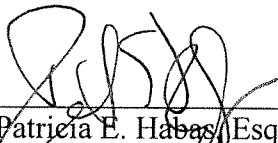
38. Plaintiff's damages, if any, were not caused by Defendant, and were caused by Plaintiffs own conduct or omissions, or a third party's own conduct or omissions.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

39. Defendant reserves the right to assert other affirmative defense as may be warranted as discovery proceeds as well as any other counterclaims or crossclaims.

**WHEREFORE**, Dawn M. Hershko Individually and d/b/a Brickhouse Food & Drink, Itzhak Hershko, Individually and d/b/a Brickhouse Food & Drink, and Brickhouse Food LLC d/b/a Brickhouse Food & Drink, hereby demands judgment dismissing the Plaintiff's Complaint in its entirety, and for such other and further relief a this Court deems just.

Dated: Orangeburg, New York  
June 14, 2018



---

Patricia E. Habas Esq.  
Rogers, Habas, Verrilli & Eisen, P.C.  
Attorneys for Defendants  
100 Dutch Hill Road, Suite 380  
Orangeburg, New York 10962  
(845) 359-5400